

**MIAMI COUNTY
LOCAL RULES
JANUARY 1, 2006**

LR52-CR2.2-1

Pursuant to Rule 2.2 of the Indiana Rules of Criminal Procedure, the Judges of the Miami Circuit Court and Superior Court hereby establish the following local rules for the assignment of criminal cases, subject to approval of the Indiana Supreme Court.

1. All traffic misdemeanor and infraction cases shall be filed in the Miami Superior Court. In the event that non-traffic misdemeanor charges are filed against a defendant who is also charged with a traffic misdemeanor, the non-traffic charges shall also be filed in the Miami Superior Court.
2. All non-traffic misdemeanor cases shall be filed in the Miami Circuit Court, except as noted in Rule 1, above.
3. All traffic-related felony cases and felony cases involving child abuse and neglect shall be filed in the Miami Superior Court. If non-traffic misdemeanor counts are also filed against the same defendant arising from the same set of facts, they shall also be filed in the Miami Superior Court.
4. All Class D felony cases with the exception of drug and theft offenses shall be filed in the Miami Superior Court. All other felony cases with the exception of those set forth in Rule 3 above will be filed in the Miami Circuit Court.
5. In the event that a change of judge is granted because of a conflict of interest or pursuant to Criminal Rule 12, the cause shall first be assigned to the judge of the other Miami County Court. In the event that neither judge can hear a case, Miami Circuit Court cases shall be first assigned to the Honorable Robert McCallen. If Judge McCallen is unable to accept, the case will be assigned to the Honorable Thomas Perrone. Miami Superior Court cases shall be first assigned to the Honorable Thomas Perrone. If Judge Perrone is unable to accept, the case will be assigned to the Honorable Robert McCallen.

Effective January 1, 2006.

LR52-CR00-1

BOND SCHEDULE

NON-ALCOHOL RELATED TRAFFIC MISDEMEANORS:	\$1,000 corporate security bond, of which ten percent (10%) may be posted in cash.
DOMESTIC BATTERY	\$3,000 cash bond until brought before the court
ALL OTHER MISDEMEANORS:	\$3,000 corporate security bond, of which ten percent (10%) may be posted in cash.
CLASS D FELONIES:	\$3,000 corporate security bond, of which ten percent (10%) may be posted in cash.
CLASS C FELONIES:	\$8,000 corporate security bond.
CLASS B FELONIES	\$20,000 corporate security bond.
CLASS A FELONIES	\$50,000 corporate security bond.
MURDER	NO BOND WILL BE SET,

The above bond schedule notwithstanding, the Judge may set bond in a different amount when it is deemed appropriate.

An additional term of bond for persons charged with battery or domestic violence is that the defendant shall have no contact, directly or indirectly with the alleged victim.

Effective January 1, 2006.

LR52-CR00-2

MIAMI COUNTY CRIMINAL DISCOVERY RULES

The Courts now order that the parties engage in mutual discovery without the necessity of further motion or directive as follows:

1. The State shall disclose to the defense the following material and information within its possession or control on or before 14 days following the entry of a plea of not guilty.
 - a) The names and last known addresses of persons whom the State may call as witnesses, together with (1) their relevant written or recorded statements, (2) memoranda containing substantially verbatim reports of their oral statements (if any memoranda exist), (3) memoranda reporting or summarizing oral statements (if such memoranda exist), (4) a brief statement, normally not to exceed ten words, indicating the nature of each witness' involvement in the case; such statement may be no more than a reference to statements described in paragraphs 1(a)(1), (2), or (3) above.
 - b) Any written or recorded statements and the substance of any oral statements made by the accused or by a co-defendant, and a list of witnesses to the making and acknowledgment of such statements.
 - c) A transcript of those portions of grand jury minutes containing testimony of persons whom the prosecuting attorney may call as witnesses at the hearing or trial, as designated by the defense after listening to the recording of the testimony.
 - d) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons.
 - e) Any books, papers, documents, photographs or tangible objects which the prosecuting attorney intends to use in the hearing or trial or which were obtained from or belong to the accused, together with the location of such items and an indication of appropriate means for defense counsel's examination of same. Under circumstances where chain of custody issues are readily apparent, such as drug cases, such chain shall be provided to the extent available on the disclosure date provided above and shall be supplemented (1) upon defendant's written request, (2) by pre-trial conference, and (3) thereafter as ordered to complete such chain.
 - f) Any record or prior criminal convictions that may be used for impeachment of the persons whom the State intends to call as witnesses at the hearing or trial.
 - g) A copy of any written agreement and the complete substance of any oral agreement made by the State with (1) any witnesses to secure their testimony or (2) any co-defendant or other person charged arising out of the same incident.
 - h) Any evidence that tends to negate the guilt of the accused as to the crime charged or tends to reduce the class of the act alleged or which would tend to mitigate his punishment.
2.
 - a) The State shall perform these obligations in any manner mutually agreeable to the Prosecutor's Office and to defense counsel. The State shall provide legible copies of statements described in paragraphs 1(a), (b), (c), and (g) as well as transcripts

of any audio or videotape recorded statement or a copy of the audio or videotape. Other items shall be provided for examination, testing, copying, photographing, or other proper use either by agreement or at specified reasonable times and places. Defense counsel shall provide reasonable notice of such examination and shall schedule these examinations in cooperation with the State.

- b) The State shall make a record of compliance with this order not more than five (5) days after the date set out in paragraph 1 above by filing with the Court: (1) its witness list together with the statement described in 1(a)(4); (2) a suitable description of memoranda and items provided, but not necessarily by providing copies of all such items to the Court; and (3) an indication of arrangements made for inspection.
3. The defense shall disclose the State the following material and information within its possession or control on or before fourteen (14) days following the date that the State has provided to the defense the information required under this order.
- a) The names and address of persons whom the defendant may call as witnesses along with (1) a summary of their testimony similar to that described in 1(a)(4), (2) record of prior criminal convictions, and (3) the relationship, if any, of the witness to defendant or any co-defendant.
 - b) Any books, papers, documents, photographs, or tangible objects that are intended to be used at a hearing or trial.
 - c) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons insofar as permitted by law.
 - d) A statement of defenses, procedural or substantive, the defendant intends to make at a hearing or trial. Such a statement shall not limit defendant's right to file any defense defined by statute, such as alibi, insanity, etc., where a specific timetable for notice to the State is statutorily described.
4. a) The defendant shall perform these obligations in any manner mutually agreeable to the Prosecutor's Office and to defense counsel. Defense shall provide opportunities for examination in a fashion similar to the State's obligations described in 2(a).
- b) The defense shall make a record of compliance with this order not more than five (5) days after the date set out in paragraph 3 above by filing with the Court: (1) its witness list together with the statement described in 3(a)(1); (b) a suitable description of items provided for examination, etc.; and (c) the statement of defense described in 3(d).
5. The Court anticipates that compliance will be deemed satisfactory unless failure to comply is brought to the Court's attention by Motion to Compel. Sanctions for failure of compliance or violations of orders on Motion to Compel shall be pursuant to Trial Rule 37.
6. Nothing herein shall limit any party's right to seek protective orders to avoid destruction or other loss of evidence, or to seek deposition at such times as they may

desire.

7. The Court may deny disclosure upon showing of:
 - a) A substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment resulting from such disclosure that outweighs any usefulness of the disclosure to counsel.
 - b) Where there is a paramount interest in non-disclosure of an informant's identity and a failure to disclose will not infringe the constitutional rights of the accused. Disclosure of the identity of witnesses to be produced at a hearing or trial will be required.
 - c) Such determination of non-disclosure shall be by the Court and shall not be within the discretion of the State or defense. Such non-disclosure shall be sought by motion for protective order.
8. Disclosure shall not be required of:
 - a) Any matter otherwise protected by law (however, disclosing the identity of juvenile co-defendants or witnesses shall not be barred because of delinquency non-disclosure statutes).
 - b) Work product of counsel including memoranda of opinions, theories, or research for themselves or from their legal or in-house investigative staff.
9. This discovery order is a continuing order through the trial of this cause and no written motion shall normally be required except to compel discovery, for a protective order, or for an extension of time.
10. Failure of either party to engage in and comply with discovery shall not be excused by the parties' unsuccessful or incomplete efforts to enter into a plea agreement or other resolution of the case unless both parties waive in writing (a) compliance with this order for a specified period of time and (b) any speedy trial requirements.
11. Any cost for reproduction or transcripts under this order shall be borne by the party to whom the information is provided except that as to pauper counsel defendants the costs shall be borne by the State or county.
12. Nothing in this Order is to be in contravention of case law or statute.

Effective January 1, 2006

LR52-TR79(h)-1

Purpose of Rule

This rule is adopted to comply with the requirements of Trial Rule 79(h) of the Indiana Rules of Trial Procedure. It is intended to provide a means of selection of special judges insuring the effective use of all judicial resources within Administrative District 5, and includes each court eligible for appointment under Section (j) of Trial Rule 79.

Central Office Established

There is established a Central Office for the keeping of records of appointment and selection of special judges for this District. The Central Office of this District shall be the Wabash Circuit Court.

The Miami Circuit and Superior Courts shall hereafter refer to the Central Office of this District whenever selection of a special judge is required under this rule. The Miami Circuit and Superior Courts shall accept from the Central Administrator the name of the individuals to then be appointed as special judge.

The person serving as Administrator of the Central Office shall have the following responsibilities;

1. To maintain a list of persons qualified to serve as special judge under Section (j) of Trial Rule 79.
2. To take referrals from the several courts of this District, requesting appointment of special judge.
3. To alternately and on a rotating basis appoint qualified judges from the list maintained for that purpose.
4. To notify the referring ~~C~~court of the individual to be appointed under this ~~R~~rule.

Current Rotation Schedule

The following shall be the rotation schedule used by the Central Administrator:

1. The Judge of the Cass Superior Court No. 1.
2. The Judge of the Wabash Circuit Court.
3. The Judge of the Howard Superior Court No. 3.
4. The Judge of the Fulton Superior Court.
5. The Judge of the Howard Superior Court No. 2.
6. The Judge of the Fulton Circuit Court.
7. The Judge of the Howard Circuit Court.
8. The Judge of the Tipton Circuit Court.

9. The Judge of the Miami Superior Court.
10. The Judge of the Howard Superior Court No. 1.
11. The Judge of the Cass Circuit Court.
12. The Judge of the Wabash Superior Court.
13. The Judge of the Miami Circuit Court.
14. The Judge of the Cass Superior Court No. 2.

Administration Fee

Each of the Courts participating under this rule shall pay each year the sum of Fifty Dollars (\$50.00) to the Central Administrator, payable directly to the Administrator by the 15th of September of each year.

Certification to Supreme Court

In cases in which no judge is eligible to serve as special judge in a particular case or where the circumstances of a case require it, the court shall certify those circumstances to the Supreme Court and that Court shall make the appointment.

Effective January 1, 2006.

LR52-AR00-1

CASELOAD DISTRIBUTION

The Miami Circuit and Superior Courts have previously adopted various rules and orders concerning the filing of certain types of matters in the County Courts. Those rules and standing orders remain in effect. Concurrently with the adoption of these local rules, LR52-CR2.2-1 has been amended to incorporate the allocation of filing of Class D felony cases.

Effective January 1, 2006.

LR52-AR00-2

REVIEW OF CASELOAD DISTRIBUTION

The judges of the courts of record of Miami County shall meet en banc in February of each year for the purpose of reviewing the weighted caseload of each court, and at such other times as may be required to comply with new orders of the Indiana Supreme Court and to comply with the District Plan or any amendments to the District Plan.

Effective January 1, 2006.

LOCAL RULE 52-AR01-1

MIAMI COUNTY COURT ADMINISTERED ALCOHOL AND DRUG SERVICES

PROGRAM SCHEDULE OF FEES

1. Program Fee: \$300
Includes substance abuse assessment, client intake and orientation, referral to treatment if required, client monitoring, case management and compliance monitoring until discharge from program.
2. Substance abuse Education Fee: \$100
Substance Abuse Education Fee includes placement in the Prime for Life Level 2 (10) hour education component, workbook, case management and compliance monitoring until course completion and/or discharge.
3. Drug Screen Fees: \$ 25 Per screen per random urine and/or saliva testing, including all lab fees and GCMS confirmation.
4. Combined fees for Program services will not exceed the statutory cap.

Effective February 1, 2007

LR52-AR15-1

COURT REPORTER SERVICES

Section One. Definitions. The following definitions shall apply under this local rule:

5. *A Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
6. *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes and any other device used for recording and storing, and transcribing electronic data.
7. *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the court room and any designated office space.
8. *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
9. *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
10. *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
11. *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
12. *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.
13. *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
14. *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Miami County.
15. *County indigent transcript* means a transcript that is paid for from county funds and is for the benefit of a litigant who has been declared indigent by a court.
16. *State indigent transcript* means a transcript that is paid for from state funds and is for the

benefit of a litigant who has been declared indigent by a court.

17. *Private transcript* means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

Section Two. Compensation, Equipment and Transcript Fees.

1. Court Reporters shall be paid an annual salary for the time spent working under the control, direction and direct supervision of their supervising court during any regular fixed work hours, gap hours or overtime hours.
2. Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.
3. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:
 1. The reasonable market rate of the use of equipment, work space and supplies.
 2. The method by which records are to be kept of the use of equipment, work space and supplies; and
 3. The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.
4. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.
5. The maximum per page fee a court reporter may charge for private practice work shall be Three Dollars and Fifty Cents (\$3.50).
6. The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be Three Dollars and Fifty Cents (\$3.50).
7. The maximum per page fee a court reporter may charge for the preparation of a transcript for a county or state Indigent transcript shall be Two Dollars and Fifty Cents (\$2.50).
8. Any transcript that is required to be expedited will result in an additional fee of Fifty Cents (\$.50) per page.

9. The court reporter shall submit directly to the county a claim for the preparation of the county or state indigent transcript.
10. An additional labor charge approximating the hourly rate based upon the court reporter's annual court compensation may be charged for the time spent binding the transcript and the exhibit binders.
11. A reasonable charge for the office supplies required and utilized for the binding and electronic transmission of the transcript, pursuant to Indiana Rules of Appellate Procedure 28 and 29, is permissible; the costs for these supplies should be determined pursuant to a Schedule of Transcript Supplies which should be established and published annually by the judge or judges of the county.
12. The courts will enter into a written agreement with the court reporter which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. either monetary compensation or compensatory time off.

Effective January 1, 2006.

LR52-FL00-1

WORKSHEET - CHILD SUPPORT OBLIGATION.

A copy of the worksheet provided in the Indiana Child Support Guidelines shall be submitted to the court in each case in which the court is asked to determine support, including cases in which agreed orders are submitted. The worksheets are to be signed by both parties under penalties of perjury.

LR52-FL00-2

SCHEDULE OF ASSETS AND LIABILITIES.

A schedule of assets and liabilities together with copies of any and all inventories and appraisals, shall be submitted to the court prior to the beginning of a contested trial and copies served upon opposing counsel.

LR52-FL00-3

INCOME AND PROPERTY DISCLOSURE.

1. In order to avoid the need for the service and answering of interrogatories and/or requests for production in a dissolution of marriage action and/or other domestic relation action for the division of property, and in order to insure complete, uniform and reciprocal disclosure of income, property, and assets, each party to an action for divorce or separation, shall cause to be filed with the court in which the action is pending, an Income and Property Disclosure Form which shall be from time to time designated and approved by the Miami County Courts. The Initiating Party shall file the disclosure form within 30 days of the date the action is filed and shall serve same upon the opposing party contemporaneous with filing. The opposing party shall have 30 days from the date of service of the initiating parties service of the disclosure form to file his or her disclosure form.
2. No discovery request may be served upon the opposing party unless and until such party seeking discovery has filed with the court his or her disclosure form. The filing and service of a prescribed disclosure form shall be deemed to comply with any and all discovery requests issued by a party where the discovery sought is contained in and/or may reasonably be discerned from such disclosure form.
3. The Clerk shall cause to be issued a copy of the prescribed disclosure form to the adverse party contemporaneous with the summons of initial notice of hearing in all dissolution of marriage or legal separations.
4. No final hearing may be scheduled and no decree of dissolution or legal separation shall be entered unless and until the prescribed disclosure form is filed with the court, except in those cases in which the court has specifically waived the requirement.

Effective January 1, 2006.